

REGULATION II - PERMITS AND FEES

RULE 210 TITLE V PERMIT PROVISIONS

INDEX

SECTION 100 - GENERAL

- 101 PURPOSE
- 102 APPLICABILITY

SECTION 200 - DEFINITIONS

- 201 EMISSIONS ALLOWABLE UNDER THE PERMIT

SECTION 300 - STANDARDS

- 301 PERMIT APPLICATION PROCESSING PROCEDURES
- 302 PERMIT CONTENTS
- 303 PERMIT REVIEW BY THE ENVIRONMENTAL PROTECTION AGENCY (EPA) AND AFFECTED STATES
- 304 EMISSION STANDARDS AND LIMITATIONS
- 305 COMPLIANCE PLAN; CERTIFICATION

SECTION 400 - ADMINISTRATIVE REQUIREMENTS

- 401 FEES REQUIRED
- 402 PERMIT TERM
- 403 SOURCE CHANGES ALLOWED WITHOUT PERMIT REVISIONS
- 404 ADMINISTRATIVE PERMIT AMENDMENTS
- 405 MINOR PERMIT REVISIONS
- 406 SIGNIFICANT PERMIT REVISIONS
- 407 PERMIT SHIELDS
- 408 PUBLIC PARTICIPATION

SECTION 500 - MONITORING AND RECORDS (NOT APPLICABLE)

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**MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS**

REGULATION II - PERMITS AND FEES

**RULE 210
TITLE V PERMIT PROVISIONS**

SECTION 100 - GENERAL

- 101 PURPOSE:** To provide an orderly procedure for the review of new Title V sources of air pollution and of the modification and operation of existing Title V sources through the issuance of Title V permits.
- 102 APPLICABILITY:** Unless otherwise noted, this rule applies to each source requiring a Title V permit or permit revision.

SECTION 200 - DEFINITIONS: For the purpose of this rule, the following definition shall apply:

- 201 EMISSIONS ALLOWABLE UNDER THE PERMIT -** An enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or an enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

SECTION 300 - STANDARDS

301 PERMIT APPLICATION PROCESSING PROCEDURES:

- 301.1 Standard Application Form and Required Information:** To apply for any permit under this rule, applicants shall complete the "Standard Permit Application Form" and shall supply all information required by the "Filing Instructions" as shown in Appendix B of these rules.
- 301.2** Unless otherwise required by Rule 200 of these rules, a timely application is:

- a. For purposes of permit renewal, a timely application is one that is submitted at least 6 months, but not more than 18 months, prior to the date of permit expiration.
- b. For the initial Phase II acid rain requirement under Rule 371 of these rules of a Title V permit, one that is submitted to the Control Officer by January 1, 1996, for sulfur dioxide, and by January 1, 1998, for nitrogen oxides.
- c. Any existing source which becomes subject to a standard promulgated by the Administrator of EPA under Section 112(d) of the Act shall, within 12 months of the date on which the standard is promulgated, submit an application for a permit revision demonstrating how the source will comply with the standard.

301.3 If, at the time an application for a permit required by these rules is submitted, an applicable implementation plan allows the determination of an alternate emission limit, a source may, in its application, propose an emission limit that is equivalent to the emission limit otherwise applicable to the source under the applicable implementation plan. The source shall also demonstrate that the equivalent limit is quantifiable, accountable, enforceable, and subject to replicable compliance determination procedures.

301.4 A complete application is one that satisfies all of the following:

- a. To be complete, an application shall provide all information required by subsection 301.1 (Standard Application Form And Required Information) of this rule. An application for permit revision only need supply information related to the proposed change, unless the source's proposed permit revision will change the permit from a Non-Title V Permit to a Title V Permit. A responsible official shall certify the submitted information consistent with subsection 301.7 (Certification Of Truth, Accuracy, And Completeness) of this rule.
- b. An application for a new permit or permit revision shall contain an assessment of the applicability of the requirements of Rule 240 and Rule 241 of these rules. If the proposed new source is a major source, as defined in Rule 240 of these rules, or the proposed permit revision constitutes a major modification as defined in Rule 100 of these rules, then the application shall comply with all applicable requirements of Rule 240 of these rules.
- c. An application for a new permit or permit revision shall contain an assessment of the applicability of the requirements established under Arizona Revised Statutes (A.R.S.) §49-426.03 and A.R.S. §49-426.06. If the proposed new source permit or permit revision

is subject to the requirements of A.R.S. §49-426.03 or A.R.S. §49-426.06, the application shall comply with all applicable requirements of those sections and rules promulgated under those sections.

- d.** An application to construct or reconstruct any major source of hazardous air pollutants shall contain a determination that maximum achievable control technology (MACT) for new sources under Section 112 of the Act will be met. Where MACT has not been established by the Administrator of EPA, such determination shall be made on a case-by-case basis under 40 C.F.R. 63.40 through 63.44, as incorporated by reference in Rule 370 of these rules. For purposes of this subsection, constructing or reconstructing a major source shall have the meaning prescribed in 40 C.F.R. 63.41, as incorporated by reference in Rule 370 of these rules.
- e.** An application for a new permit, a permit revision, or a permit renewal shall be deemed to be complete, unless the Control Officer notifies the applicant by certified mail within 60 days of receipt of the application that the application is not complete. For a proposed new major source or a major modification subject to the requirements of Rule 240 of these rules, the permit application shall be deemed to be submitted on the date that the completeness determination is made under Rule 240 of these rules.
- f.** If, while processing an application that has been determined or deemed to be complete, the Control Officer determines that additional information is necessary to evaluate or to take final action on that application, the Control Officer may request such information in writing and may set a reasonable deadline for a response. Except for minor permit revisions as set forth in Section 405 of this rule, a source's ability to continue operating without a permit, as set forth in this rule, shall be in effect from the date the application is determined to be complete until the final permit is issued, provided that the applicant submits any requested additional information by the deadline specified by the Control Officer. The Control Officer may, after 1 submittal by the applicant under this rule, reject an application that is still determined to be incomplete and shall notify the applicant of the decision by certified mail.
- g.** The completeness determination shall not apply to revisions processed through the minor permit revision process.
- h.** To be complete, an application for a new permit or an application for a permit revision shall list and generally group activities, if applicable, which are insignificant as defined in Rule 100 (General

Provisions And Definitions) of these rules and which are listed in Appendix D (List Of Insignificant Activities) of these rules. The application need not provide emissions data regarding insignificant activities. If the Control Officer determines that an activity listed as insignificant does not meet the requirements of insignificant as defined in Rule 100 of these rules and as listed in Appendix D of these rules (i.e., if emissions estimates are needed for another purpose, such as determining the amount of permit fees), then the Control Officer shall notify the applicant in writing and shall specify additional information required.

- i. If a permit applicant requests terms and conditions allowing for the trading of emission increases and decreases in the permitted source solely for the purpose of complying with a federally enforceable emission cap that is established in the permit independent of otherwise applicable requirements, the permit applicant shall include in its application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable.
- j. The Control Officer agrees with a notice of confidentiality submitted under A.R.S. §49-487.

301.5 A source that has submitted information with an application under a claim of confidentiality under A.R.S. §49-487 and Rule 200 of these rules shall submit a copy of such information directly to the Administrator of EPA.

301.6 Duty To Supplement Or Correct Application: Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a proposed permit.

301.7 Certification Of Truth, Accuracy, And Completeness: Any application form, report, or compliance certification submitted under these rules shall contain certification by a responsible official of truth, accuracy, and completeness of the application as of the time of submittal. This certification and any other certification required under this rule shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

301.8 Action On Application:

- a.** The Control Officer may issue a permit with a compliance schedule for a source that is not in compliance with all applicable requirements at the time of permit issuance.
- b.** In addition, the Control Officer may issue, revise, or renew a permit only if all of the following conditions have been met:
 - (1)** The permit application received must be complete according to subsection 301.4 of this rule.
 - (2)** Except for revisions qualifying as administrative or minor under Sections 404 and 405 of this rule, all of the requirements for public notice and participation under Section 408 of this rule must have been met.
 - (3)** The Control Officer shall have complied with the requirements of Section 303 of this rule for notifying and responding to affected states and if applicable, other notification requirements of Rule 240, Subsection 304.2 (Action On Application And Notification Requirements) and Rule 240, Subsection 511.3(b) (Visibility Protection) of these rules.
 - (4)** The conditions of the permit shall require compliance with all applicable requirements.
 - (5)** For permits for which an application is required to be submitted to the Administrator of EPA under subsection 303.1 of this rule, and to which the Administrator of EPA has properly objected to its issuance in writing within 45 days of receipt of the proposed final permit and all necessary supporting information from the Division, the Control Officer has revised and submitted a proposed final permit in response to the objection and the Administrator of EPA has not objected to this proposed final permit.
 - (6)** For permits to which the Administrator of EPA has objected to issuance under a petition filed under 40 C.F.R. 70.8(d), the Administrator of EPA's objection has been resolved.
- c.** The Control Officer may issue a notice of revocation of a permit issued under this rule if:
 - (1)** The Control Officer has reasonable cause to believe that the permit was obtained by fraud or misrepresentation.

- (2) The person applying for the permit failed to disclose a material fact required by the permit application form or the regulation applicable to the permit, of which the applicant had or should have had knowledge at the time the application was submitted.
 - (3) The terms and conditions of the permit have been or are being violated and the violation has not been corrected within a reasonable period of time as specified by the Control Officer.
- d. If the Control Officer issues a notice of denial or revocation of a permit under this rule, the notice shall be served on the applicant or permittee by certified mail, return receipt requested. The notice shall include a statement detailing the grounds for the denial or revocation and explaining that the permit applicant or permittee is entitled to a hearing under A.R.S. §49-482.
- e. The Control Officer shall provide a statement that sets forth the legal and factual basis for the proposed permit conditions including references to the applicable statutory or regulatory provisions. The Control Officer shall send this statement to the Administrator of EPA and to any other person who requests it.
- f. Except as provided in 40 C.F.R. 70.4(b)(11), Rule 200 of these rules and Rule 240 of these rules, regulations promulgated under Title IV or V of the Act, or the permitting of affected sources under the acid rain program, the Control Officer shall take final action on each permit application (and request for revision or renewal) within 18 months after receiving a complete application.
- g. Priority shall be given by the Control Officer to taking action on applications for construction or modification submitted under Title I, Parts C (Prevention of Significant Deterioration) and D (New Source Review) of the Act.
- h. A proposed permit decision shall be published within 9 months of receipt of a complete application and any additional information requested under subsection 301.4(e) of this rule to process the application. The Control Officer shall provide notice of the decision as provided in Section 408 of this rule and any public hearing shall be scheduled as expeditiously as possible.

301.9 Requirement For A Permit: Except as noted under the provisions in Sections 403 and 405 of this rule, no source may operate after the time that it is required to submit a timely and complete application, except in

compliance with a permit issued under this rule. However, if a source submits a timely and complete application for permit issuance, revision, or renewal, the source's failure to have a permit is not a violation of these rules until the Control Officer takes final action on the application. This protection shall cease to apply if, subsequent to the completeness determination, the applicant fails to submit, by the deadline specified in writing by the Control Officer, any additional information identified as being needed to process the application. If a source submits a timely and complete application for a permit renewal, but the Control Officer has failed to issue or deny the renewal permit before the end of the term of the previous permit, then the permit shall not expire until the permit renewal has been issued or denied.

302 PERMIT CONTENTS:

302.1 Each permit issued under this rule shall include the following elements:

- a.** The date of issuance, the permit term, and the deadline by which the permittee must renew the permit.
- b.** Enforceable emission limitations and standards including those operational requirements and limitations that assure compliance with all applicable requirements at the time of issuance.
 - (1)** The permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.
 - (2)** The permit shall state that, where an applicable requirement of the Act is more stringent than an applicable requirement of regulations promulgated under Title IV of the Act and incorporated under Rule 371 of these rules, both provisions shall be incorporated into the permit and shall be enforceable by the Administrator of EPA.
 - (3)** Any permit containing an equivalency demonstration for an alternative emission limit submitted under subsection 301.3 of this rule shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.
 - (4)** The permit shall specify applicable requirements for fugitive emission limitations, regardless of whether the source category in question is included in the list

of sources contained in the definition of major source in Rule 100 of these rules.

c. As necessary, the following requirements with respect to monitoring:

- (1)** Requirements, including stipulated requirements, concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods;
- (2)** Where the applicable requirement does not require periodic testing or instrumental or non-instrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit as reported under subsection 302.1(d) of this rule. Such monitoring requirements shall ensure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Recordkeeping provisions may be sufficient to meet the requirements of this rule; and
- (3)** Any emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods promulgated under Sections 114(a)(3) or 504(b) of the Act.

d. With respect to recordkeeping, the permit shall incorporate all applicable recordkeeping requirements and require, where applicable, the following:

- (1)** Records of required monitoring information that include the following:
 - (a)** The date, place as defined in the permit, and time of sampling or measurements;
 - (b)** The date(s) analyses were performed;
 - (c)** The name of the company or entity that performed the analysis;
 - (d)** The analytical techniques or methods used;

- (1)** No permit revision shall be required for increases in emissions that are authorized by allowances acquired under the acid rain program and incorporated under Rule 371 of these rules, provided that such increases do not require a permit revision under any other applicable requirement.

- (2)** No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to non-compliance with any other applicable requirement.

- (3)** Any such allowance shall be accounted for according to the procedures established in regulations promulgated under Title IV of the Act.

- (4)** Any permit issued under the requirements of this rule and Title V of the Act to a unit subject to the provisions of Title IV of the Act and incorporated under Rule 371 of these rules shall include conditions prohibiting all of the following:

- (a)** Annual emissions of sulfur dioxide in excess of the number of allowances to emit sulfur dioxide held by the owners or operators of the unit or the designated representative of the owners or operators.

- (b)** Exceedances of applicable emission rates.

- (c)** The use of any allowance prior to the year for which it was allocated.

- (d)** Violation of any other provision of the permit.

- g.** A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.

- h.** Provisions stating the following:

- (1)** That the permittee shall comply with all conditions of the permit including all applicable requirements of Arizona air quality statutes and the air quality rules. Compliance with permit terms and conditions does not relieve, modify, or otherwise affect the permittee's duty to comply with all applicable requirements of Arizona air quality statutes and the Maricopa County Air Pollution Control Regulations. Any permit non-compliance is grounds for enforcement action; for a permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application. Non-compliance

with any federally enforceable requirement in a permit constitutes a violation of the Act.

- (2)** That the permittee shall halt or reduce the permitted activity in order to maintain compliance with applicable requirements of Federal laws, Arizona laws, these rules, or other conditions of the permit.
 - (3)** That the permit may be revised, reopened, revoked and reissued, or terminated for cause. The filing of a request by a permittee for a permit revision, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.
 - (4)** That the permit does not convey any property rights nor exclusive privilege, of any sort.
 - (5)** That the permittee shall furnish to the Control Officer, within a reasonable time, any information that the Control Officer may request in writing to determine whether cause exists for revising, revoking and reissuing the permit, or terminating the permit, or to determine compliance with the permit. Upon request, the permittee shall also furnish to the Control Officer copies of records required to be kept by the permit. For information claimed to be confidential, the permittee shall furnish a copy of such records directly to the Administrator of EPA along with a claim of confidentiality.
 - (6)** For any major source operating in a nonattainment area for any pollutant(s) for which the source is classified as a major source, the source shall comply with reasonably available control technology (RACT) as defined in Rule 100 of these rules.
 - (7)** For any major source operating in a nonattainment area designated as serious for PM₁₀, for which the source is classified as a major source for PM₁₀, the source shall comply with the best available control technology (BACT), as defined in Rule 100 (General Provisions And Definitions) of these rules, for PM₁₀.
- i.** A provision to ensure that a source pays fees to the Control Officer under A.R.S. §49-480(D) and Rule 280 of these rules.

- j.** A provision stating that no permit revision shall be required under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.
- k.** Terms and conditions for reasonably anticipated operating scenarios identified by the source in its application as approved by the Control Officer. Such terms and conditions:

 - (1)** Shall require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted source a record of the scenario under which it is operating;
 - (2)** Shall extend the permit shield described in Section 407 of this rule to all terms and conditions under each such operating scenario; and
 - (3)** Must ensure that the terms and conditions of each such alternative scenario meet all applicable requirements and the requirements of this rule.
- l.** Terms and conditions, if the permit applicant requests them, as approved by the Control Officer, for the trading of emissions increases and decreases in the permitted source, to the extent that the applicable requirements provide for trading increases and decreases without a case-by-case approval of each emissions trade. Such terms and conditions:

 - (1)** Shall include all terms required under subsections 302.1 and 302.3 of this rule to determine compliance;
 - (2)** May extend the permit shield described in subsection 302.4 of this rule to all terms and conditions that allow such increases and decreases in emissions; and
 - (3)** Shall meet all applicable requirements and requirements of this rule.
- m.** Terms and conditions, if the permit applicant requests them and they are approved by the Control Officer, setting forth intermittent operating scenarios including potential periods of downtime. If such terms and conditions are included, the county's emissions inventory shall not reflect the zero emissions associated with the downtime.

- n. If a permit applicant requests it, the Control Officer shall issue permits that contain terms and conditions allowing for the trading of emission increases and decreases in the permitted source solely for the purpose of complying with a federally enforceable emission cap that is established in the permit independent of otherwise applicable requirements. The permit applicant shall include in its application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable. The Control Officer shall not be required to include in the emissions trading provisions any emissions units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades. The permit shall also require compliance with all applicable requirements. Changes made under this subsection shall not include modifications under any provision of Title I of the Act and may not exceed emissions allowable under the permit. The terms and conditions shall include notice that (1) conforms to subsection 403.4 and subsection 403.5 of this rule and (2) describes how the increases or decreases in emissions will comply with the terms and conditions of the permit.
- o. Such terms and conditions as are consistent with the requirements of this rule, of Rule 100 of these rules and of the Clean Air Act (CAA) and are found by the Control Officer to be necessary.

302.2 Federally Enforceable Requirements: All terms and conditions in a Title V Permit shall be enforceable by the Administrator of the Environmental Protection Agency (EPA) and citizens under the Act, including any provisions designed to limit a source's potential to emit. However, the Control Officer shall specifically designate as not being federally enforceable under the Act any terms and conditions included in the Title V Permit that are not required under the Act or under any of its applicable requirements.

302.3 All applications for a permit required by this rule shall include a compliance plan meeting the requirements of Section 503 of the Act.

302.4 Each permit shall include the applicable permit shield provisions set forth in Section 407 of this rule.

302.5 A Title V permit issued to a major source shall require that revisions be made under Rule 200 of these rules to incorporate additional applicable requirements adopted by the Administrator of EPA under the Act that become applicable to a source with a permit with a remaining permit term of 3 or more years. No revision shall be required if the effective date of the applicable requirements is after the expiration of the permit. The revisions shall be made as expeditiously as practicable, but not later than 18 months after the promulgation of such standards and regulations. Any

permit revision required under this subsection shall comply with provisions in Rule 200 of these rules for permit renewal and shall reset the 5 year permit term.

303

PERMIT REVIEW BY THE EPA AND AFFECTED STATES:

303.1 Except as provided in subsection 301.5 of this rule and as waived by the Administrator of EPA, for each Title V permit, a copy of each of the following shall be provided to the Administrator of EPA as follows:

- a.** The applicant shall provide a complete copy of the application, including any attachments, compliance plans, and other information required by subsection 301.4 of this rule at the time of submittal of the application to the Control Officer.
- b.** The Control Officer shall provide the proposed final permit after public and affected State review.
- c.** The Control Officer shall provide the final permit at the time of issuance.

303.2 The Control Officer may require the application information to be submitted in a computer-readable format compatible with the Administrator of EPA's national database management system.

303.3 The Control Officer shall keep all records associated with all permits including those records containing the calculations and rationale supporting the Control Officer's decision to issue a permit for a minimum of 5 years from permit issuance.

303.4 No permit for which an application is required to be submitted to the Administrator of EPA under subsection 303.1 of this rule shall be issued if the Administrator of EPA properly objects to its issuance in writing within 45 days of receipt of the proposed final permit from the Control Officer and all necessary supporting information.

303.5 Review By Affected States:

- a.** For each Title V permit, the Control Officer shall provide notice of each proposed permit to any affected State on or before the time that the Control Officer provides this notice to the public as required under Section 408 of this rule except to the extent Section 405 of this rule requires the timing of the notice to be different.
- b.** If the Control Officer refuses to accept a recommendation of any affected State submitted during the public or affected State review period, the Control Officer shall notify the Administrator of EPA and the affected State in writing. The notification shall include the

Control Officer's reasons for not accepting any such recommendation and shall be provided to the Administrator of EPA as part of the submittal of the proposed final permit. The Control Officer shall not be required to accept recommendations that are not based on federal applicable requirements or requirements of state law.

303.6 Any person who petitions the Administrator of EPA under 40 C.F.R. 70.8(d) shall notify the Control Officer by certified mail of such petition as soon as possible, but in no case more than 10 days following such petition. Such notice shall include the grounds for objection and whether such objections were raised during the public comment period. A petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day administrative review period and prior to the Administrator of EPA's objection.

303.7 If the Control Officer has issued a permit prior to receipt of the Administrator of EPA's objection under this rule, and the Administrator of EPA indicates that a permit should be revised or revoked and reissued, the Control Officer shall respond consistent with Rule 200 of these rules and may thereafter issue only a revised permit that satisfies the Administrator of EPA's objection. In any case, the source shall not be in violation of the requirement to have submitted a timely and complete application.

303.8 Prohibition on Default Issuance:

- a. No Title V permit including a permit renewal or revision shall be issued until affected States and the Administrator of EPA have had an opportunity to review the proposed permit.
- b. No permit or renewal shall be issued unless the Control Officer has acted on the application.

304 EMISSION STANDARDS AND LIMITATIONS: Wherever applicable requirements apply different standards or limitations to a source for the same item, all applicable requirements shall be included in the permit.

305 COMPLIANCE PLAN; CERTIFICATION:

305.1 All permits shall contain the following elements with respect to compliance:

- a. The following monitoring requirements sufficient to assure compliance with the terms and conditions of the permit:
 - (1) Any emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods promulgated under Section 114(a)(3) or 504(b) of the Act;

- 210.18

- (a) The identification of each term or condition of the permit that is the basis of the certification;
 - (b) The compliance status;
 - (c) Whether compliance was continuous or intermittent;
 - (d) The method(s) used for determining the compliance status of the source, currently and over the reporting period; and
 - (e) Other facts the Control Officer may require to determine the compliance status of the source.
- (4) A requirement that all compliance certifications be submitted to the Control Officer and to the Administrator of EPA;
- (5) Additional requirements specified in Sections 114(a)(3) and 504(b) of the Act or under Rule 220, Section 304 (Permits Containing Voluntarily Accepted Emissions Limitations, Controls, Or Other Requirements (Synthetic Minor)) of these rules.
- e. A requirement for any document required to be submitted by a permit, including reports, to contain a certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this rule shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.
- f. Inspection and entry provisions which require the permittee to allow the Control Officer, upon presentation of proper credentials, to:
 - (1) Enter upon the permittee's premises where a source is located or emissions-related activity is conducted, or where records are required to be kept under the conditions of the permit;
 - (2) Have access to and copy, at reasonable times, any records that are required to be kept under the conditions of the permit;
 - (3) Inspect, at reasonable times, any sources, equipment (including monitoring and air pollution control equipment),

practices, or operations regulated or required under the permit;

- (4)** Sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with the permit or other applicable requirements; and
- (5)** To record any inspection by use of written, electronic, magnetic, and photographic media.

g. A compliance plan that contains all of the following:

- (1)** A description of the compliance status of the source with respect to all applicable requirements.
- (2)** A description as follows:
 - (a)** For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.
 - (b)** For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.
 - (c)** For requirements with which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.
- (3)** A compliance schedule as follows:
 - (a)** For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.
 - (b)** For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this rule, unless a more detailed schedule is expressly required by the applicable requirement.
 - (c)** A schedule of compliance for sources that are not in compliance with all applicable requirements at the

time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirement for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.

- (4) A schedule for submission of certified progress reports no less frequently than every 6 months for sources required to have a schedule of compliance to remedy a violation. Such schedule shall contain:

 - (a) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and
 - (b) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.
- (5) The compliance plan content requirements specified in subsection 305.1(g) of this rule shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the Act and incorporated under Rule 371 of these rules with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

- h. If there is a Federal Implementation Plan (FIP) applicable to the source, a provision that compliance with the FIP is required.

SECTION 400 - ADMINISTRATIVE REQUIREMENTS

- 401 FEES REQUIRED:** Persons subject to this rule shall pay the fees required, as set forth in Rule 280 of these rules.
- 402 PERMIT TERM:** A Title V Permit shall remain in effect for no more than 5 years.
- 403 SOURCE CHANGES ALLOWED WITHOUT PERMIT REVISIONS:**

403.1 A source with a permit may make changes without a permit revision if all of the following apply:

- a.** The changes are not modifications under any provision of Title I of the Act or under A.R.S. §49-401.01(17).
- b.** The changes do not result in emissions that exceed the emissions allowable under the permit whether expressed therein as a rate of emissions or in terms of total emissions.
- c.** The changes do not violate any applicable requirements or trigger any additional applicable requirements.
- d.** The changes meet all requirements for processing as a minor permit revision under Section 405 of this rule.
- e.** The changes do not violate federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.

403.2 The substitution of an item of process or pollution control equipment for an identical or substantially similar item of process or pollution control equipment shall qualify as a change that does not require a permit revision, if it meets all of the requirements of subsections 403.1, 403.4, and 403.5 of this rule.

403.3 Except for sources with authority to operate under general permits, permitted sources may trade increases and decreases in emissions within the permitted source, as established in the permit under subsection 302.1(l) of this rule, where an applicable implementation plan provides for such emissions trades, without applying for a permit revision and based on the 7 working days notice prescribed in subsection 403.4 of this rule. This provision is available in those cases where the permit does not already provide for such emissions trading, and shall not include any emissions units for which emissions are not quantifiable nor for which there are no replicable procedures to enforce the emissions trades.

403.4 For each such change under subsections 403.1 and 403.3 of this rule, a written notice either by hand delivery or by certified mail shall be received by the Control Officer and the Administrator of EPA, a minimum of 7 working days in advance of the change. Notifications of changes associated with emergency conditions, such as malfunctions necessitating the replacement of equipment, may be provided less than 7 working days in advance of the change but must be provided as far in advance of the change, or if advance notification is not practicable, as soon after the change as possible.

403.5 Each notification shall include:

- a.** When the proposed change will occur.
- b.** A description of each such change.
- c.** Any change in emissions of regulated air pollutants.
- d.** The pollutants emitted subject to the emissions trade, if any.
- e.** The provisions in the implementation plan that provide for the emissions trade with which the source will comply and any other information as may be required by the provisions in the implementation plan authorizing the trade.
- f.** If the emissions trading provisions of the implementation plan are invoked, then the permit requirements with which the source will comply.
- g.** Any permit term or condition that is no longer applicable as a result of the change.

403.6 The permit shield described in Section 407 of this rule shall not apply to any change made under subsections 403.1 through 403.3 of this rule. Compliance with the permit requirements that the source will meet using the emissions trade shall be determined according to requirements of the implementation plan authorizing the emissions trade.

403.7 Except as otherwise provided for in the permit, making a change from one alternative operating scenario to another, as provided in subsection 302.1(k) of this rule, shall not require any prior notice under this rule.

403.8 Notwithstanding any other part of this rule, the Control Officer may require a permit to be revised for any change that, when considered together with any other changes submitted by the same source under this rule over the term of the permit, does not satisfy subsection 403.1 of this rule.

403.9 The Control Officer shall make available to the public monthly summaries of all notices received under this rule.

404 ADMINISTRATIVE PERMIT AMENDMENTS:

404.1 Except for provisions to Title IV of the Act, an administrative permit amendment is a permit revision that does any of the following:

- a.** Corrects typographical errors;

- b.** Identifies a change in the name, address, or phone number of any person identified in the permit or provides a similar minor administrative change at the source;
- c.** Requires more frequent monitoring or reporting by the permittee; or
- d.** Allows for a change in ownership or operational control of a source under Rule 200 of these rules, where the Control Officer determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility coverage and liability between the current and new permittee has been submitted to the Control Officer.

404.2 Administrative permit amendments to Title IV provisions of the permit shall be governed by regulations promulgated by the Administrator of EPA under Title IV of the Act or incorporated under Rule 371 of these rules.

404.3 The Control Officer shall take no more than 60 days from receipt of a request for an administrative permit amendment to take final action on such request. Permits may incorporate such changes without providing notice to the public or affected States provided that such permits designate that such permit revisions have been made under this rule.

404.4 The Control Officer shall submit a copy of Title V permits revised under this rule to the Administrator of EPA.

404.5 Source's Ability to Make a Change: Except for permit transfers described in Rule 200 of these rules, the source may implement the changes addressed in the request for an administrative permit amendment immediately upon submittal of the request.

405 MINOR PERMIT REVISIONS:

405.1 Minor permit revision procedures may be used only for those changes at a source that satisfy all of the following:

- a.** Do not violate any applicable requirement;
- b.** Do not involve substantive changes to existing monitoring, reporting, or recordkeeping requirements in the permit;
- c.** Do not require or change:
 - (1)** A case-by-case determination of an emission limitation or other standard,
 - (2)** A source specific determination of ambient impacts, or

(3) A visibility or increment analysis.

- d.** Do not seek to establish nor to change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed in order to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include:
 - (1)** A federally enforceable emissions cap which the source would assume to avoid classification as a modification under any provision of Title I of the Act; and
 - (2)** An alternative emissions limit approved under regulations promulgated under the Section 112(i)(5) of the Act.
- e.** Are not modifications under any provision of Title I of the Act or regulations promulgated under A.R.S. §49-480.04.
- f.** Are not changes in fuels not represented in the permit application or provided for in the permit.
- g.** The increase in the source's potential to emit for any regulated air pollutant is not significant as defined in Rule 100 of these rules.
- h.** Are not required to be processed as a significant permit revision under Section 406 of this rule.

405.2 As approved by the Control Officer, minor permit revision procedures may be used for permit revisions involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit revision procedures are explicitly provided for in an applicable implementation plan or in applicable requirements promulgated by the Administrator of EPA.

405.3 An application for minor permit revision shall be on a standard application form prescribed by the Control Officer and shall include the following:

- a.** A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;
- b.** For any source that is making the change immediately after it files the application, the source's suggested draft permit; and
- c.** Certification by a responsible official, consistent with standard permit application requirements, that the proposed revision meets the criteria for use of minor permit revision procedures and a request that such procedures be used.

405.4 EPA And Affected State Notification: Within 5 working days of receipt of an application for a minor permit revision, the Control Officer shall notify the Administrator of EPA and affected States of the requested permit revision in accordance with Section 303 of this rule.

405.5 The Control Officer shall not issue a final permit revision until after the Administrator of EPA's 45-day review period or until the Administrator of EPA has notified the Control Officer that the Administrator of EPA will not object to issuance of the permit revision, whichever is first, although the Control Officer may approve the permit revision prior to that time. Within 90 days of the Control Officer's receipt of an application under minor permit revision procedures, or 15 days after the end of the Administrator of EPA's 45-day review period, whichever is later, the Control Officer shall do one or more of the following:

- a. Issue the permit revision as proposed;
- b. Deny the permit revision application;
- c. Determine that the proposed permit revision does not meet the minor permit revision criteria and should be reviewed under the significant permit revision procedures; and/or
- d. Revise the proposed permit revision and transmit to the Administrator of EPA the new proposed permit revision as required in Section 303 of this rule.

405.6 Source's Ability To Make Change: The source may make the change proposed in its minor permit revision application immediately after it files the application. After the source makes the change allowed by the preceding sentence, and until the Control Officer takes any of the actions specified in subsection 405.5 of this rule, the source shall comply with both the applicable requirements governing the change and the proposed revised permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the Control Officer may enforce existing permit terms and conditions, which the source seeks to revise.

405.7 Permit Shield: The permit shield under Section 407 of this rule shall not extend to minor permit revisions.

405.8 Notwithstanding any other part of this rule, the Control Officer may require a permit to be revised under Section 406 of this rule for any change that, when considered together with any other changes submitted by the same

source under this rule or under Section 404 of this rule over the life of the permit, do not satisfy subsection 405.1 of this rule.

405.9 The Control Officer shall make available to the public monthly summaries of all applications for minor permit revisions.

406 SIGNIFICANT PERMIT REVISIONS:

406.1 A significant permit revision shall be used for an application requesting a permit revision that does not qualify as a minor permit revision nor as an administrative permit amendment. A significant permit revision that is only required because of a change described in subsection 405.1(f) or subsection 405.1(g) of this rule shall not be considered a significant permit revision under Part 70 for the purposes of 40 C.F.R. 64.5(a)(2). Every significant change in existing monitoring permit terms or conditions and every relaxation of reporting or recordkeeping permit terms or conditions shall follow significant permit revision procedures.

406.2 Any modification to a major source of federally listed hazardous air pollutants, and any reconstruction of a source, or a process or production unit, under Section 112(g) of the Act and regulations promulgated thereunder, shall follow significant permit revision procedures and shall follow any rules adopted under A.R.S. §49-480.04.

406.3 All modifications to sources subject to rules promulgated under A.R.S. §49-480.04 shall follow significant permit revision procedures.

406.4 Significant permit revisions shall meet all requirements of this rule for applications, public participation, review by affected States, and review by the Administrator of EPA, that apply to permit issuance and renewal.

406.5 The Control Officer shall process the majority of significant permit revision applications received each calendar year within 9 months of receipt of a complete permit application but in no case longer than 18 months. Applications for which the Control Officer undertakes the accelerated permitting process, under Rule 200, Section 313 of these rules, shall not be included in this requirement. Subsection 406.5 of this rule does not change any time-frame requirements in Section 301 of this rule.

407 PERMIT SHIELDS:

407.1 Each Title V permit issued under this rule shall specifically identify all federal, state, and local air pollution control requirements applicable to the source at the time the permit is issued. The permit shall state that compliance with the conditions of the permit shall be deemed compliance with any applicable requirement as of the date of permit issuance, provided that such applicable requirements are included and expressly identified in the permit. The Control Officer may include in a permit determination that

other requirements specifically identified are not applicable. Any permit issued under this rule that does not expressly state that a permit shield exists shall not provide such a shield.

407.2 Nothing in this rule or in any permit shall alter or affect the following:

- a.** The provisions of Section 303 of the Act (Emergency Orders), including the authority of the Administrator of EPA under that section.
- b.** The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance.
- c.** The applicable requirements of the acid rain program, consistent with Section 408(a) of the Act.
- d.** The ability of the Administrator of EPA or of the Control Officer to obtain information from a source under Section 114 of the Act, or any provision of State law.
- e.** The authority of the Control Officer to require compliance with new applicable requirements adopted after the permit is issued.

407.3 In addition to the provisions of Rule 200 of these rules, a permit shall be reopened by the Control Officer and the permit shield revised, when it is determined that standards or conditions in the permit are based on incorrect information provided by the applicant.

408 PUBLIC PARTICIPATION:

408.1 The Control Officer shall provide public notice, an opportunity for public comment, and an opportunity for a hearing before taking any of the following actions for a source required to obtain a permit under Title V of the Clean Air Act:

- a.** Issuing or renewing a permit.
- b.** Issuing a significant permit revision.
- c.** Revoking and reissuing or reopening a permit.
- d.** Issuing a conditional order under Rule 120 of these rules.
- e.** Granting a variance from a general permit under A.R.S. §49-480.04(D) and Rule 230 of these rules.

408.2 The Control Officer shall provide public notice of receipt of complete applications for major sources by publishing a notice in a newspaper of general circulation in Maricopa County.

408.3 The Control Officer shall provide the notice required under subsection 408.1 of this rule as follows:

- a.** The Control Officer shall publish the notice once each week for 2 consecutive weeks in 2 newspapers of general circulation in the county where the source is or will be located.
- b.** The Control Officer shall mail a copy of the notice to persons on a mailing list developed by the Control Officer consisting of those persons who have requested in writing to be placed on such a mailing list.
- c.** The Control Officer shall give notice by other means if necessary to assure adequate notice to the affected public.

408.4 The notice required by subsection 408.3 of this rule shall include the following:

- a.** Identification of the affected facility;
- b.** Name and address of the permittee or applicant;
- c.** Name and address of the permitting authority processing the permit action;
- d.** The activity or activities involved in the permit action;
- e.** The emissions change involved in any permit revision;
- f.** The air contaminants to be emitted;
- g.** A statement that any person may submit written comments, or a written request for a public hearing, or both, on the proposed permit action along with the deadline for such requests or comments;
- h.** The name, address, and telephone number of a person from the Division from whom additional information may be obtained;
- i.** Locations where copies of the permit or permit revision application, the proposed permit, and all other materials available to the Control Officer that are relevant to the permit decision may be reviewed, including the closest Division office, and the times at which such materials shall be available for public inspection;

- j. A summary of any notice of confidentiality filed under Rule 100 of these rules; and
- k. If applicable, a statement that the source has submitted a risk management analysis under A.R.S. §49-480.04.
- l. A statement in the public record if the permit or permit revision would result in the generation of emission reduction credits under A.A.C. R 18-2-1204 (Title 18, Chapter 2, Article 12) or the utilization of emission reduction credits under A.A.C. R 18-2-1206 (Title 18, Chapter 2, Article 12).

408.5 The Control Officer shall hold a public hearing to receive comments on petitions for conditional orders, which would vary from requirements of the applicable implementation plan. For all other actions involving a proposed permit, the Control Officer shall hold a public hearing only upon written request. If a public hearing is requested, the Control Officer shall schedule the hearing and publish notice as described in A.R.S. §49-498 and in subsection 408.4 of this rule. The Control Officer shall give notice of any public hearing at least 30 days in advance of the hearing.

408.6 At the time the Control Officer publishes the first notice under subsection 408.3(a) of this rule, the applicant shall post a notice containing the information required in subsection 408.4 of this rule at the site where the source is or may be located. Consistent with federal, State, and local law, the posting shall be prominently placed at a location under the applicant's legal control, adjacent to the nearest public roadway, and visible to the public using the public roadway. If a public hearing is to be held, the applicant shall place an additional posting providing notice of the hearing. Any posting shall be maintained until the public comment period is closed.

408.7 The Control Officer shall provide at least 30 days from the date of the first notice for public comment. The Control Officer shall keep a record of the commenters and of the issues raised during the public participation process and shall prepare written responses to all comments received. At the time a final decision is made, the record and copies of the Control Officer's responses shall be made available to the applicant and to all commenters.

SECTION 500 – MONITORING AND RECORDS (NOT APPLICABLE)

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